

Assembly Bill No. 610

Passed the Assembly September 10, 2013

Chief Clerk of the Assembly

Passed the Senate September 9, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 2970 of the Penal Code, and to amend Section 4117 of the Welfare and Institutions Code, relating to state hospitals.

LEGISLATIVE COUNSEL'S DIGEST

AB 610, Achadjian. State hospitals: involuntary treatment.

Existing law requires, prior to the termination of parole or release from prison, as specified, of a parolee or prisoner with a severe mental disorder that is not in remission or cannot be kept in remission without treatment, that a written evaluation on remission be submitted to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital, the district attorney of the county of commitment.

This bill would specify that, in the case of a person who is in a prison or in a state mental hospital, the written evaluation on remission be submitted to the district attorney of the county of commitment to prison.

Existing law requires a county to submit a statement of all mental health treatment costs and a separate statement of all nontreatment costs to the State Department of State Hospitals and the Controller, respectively, when a trial or hearing is held for specified inmates of state hospitals, including trials for persons charged with escape from a state hospital and trials for persons who commit a crime while confined in a state hospital.

This bill would make these provisions applicable to hearings for an order seeking involuntary treatment with psychotropic medication, or any other medication for which an order is required, of a person confined in a state hospital.

Existing law authorizes a district attorney to file a petition for continued involuntary treatment for one year of a prisoner who refused to agree to treatment as part of parole, if the prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment and the prisoner represents a substantial danger of physical harm to others.

This bill would require the nontreatment costs associated with any hearing for the involuntary medication of a person committed under this provision to be paid by the county of commitment, as defined.

The people of the State of California do enact as follows:

SECTION 1. Section 2970 of the Penal Code is amended to read:

2970. (a) Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2962, unless good cause is shown for the reduction of that 180-day period, if the parolee's or prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital that is treating the parolee, or the community program director in charge of the parolee's outpatient program, or the Secretary of the Department of Corrections and Rehabilitation, shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital, the district attorney of the county of commitment to prison, his or her written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits.

(b) The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall be accompanied by affidavits specifying that treatment, while the prisoner was released from prison on parole, has been continuously provided by the State Department of State Hospitals either in a state hospital or in an outpatient program. The petition shall also specify that the prisoner has a severe mental disorder, that the severe mental disorder is not in remission or cannot be kept in remission if the person's treatment is not continued, and that, by reason of his or her severe mental disorder, the prisoner represents a substantial danger of physical harm to others.

SEC. 2. Section 4117 of the Welfare and Institutions Code is amended to read:

4117. (a) Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted

by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, Section 2966, or Section 2972 of the Penal Code, Section 7361 of this code, or former Section 6316.2 of this code for the release of a person confined in a state hospital, whenever a hearing is had for an order seeking involuntary treatment with psychotropic medication, or any other medication for which an order is required, of a person confined in a state hospital pursuant to Section 2962 of the Penal Code, and whenever a person confined in a state hospital is tried for a crime committed therein, the appropriate financial officer or other designated official of the county in which the trial or hearing is had shall make out a statement of all mental health treatment costs and shall make out a separate statement of all nontreatment costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statements shall be properly certified by a judge of the superior court of that county. The statement of mental health treatment costs shall be sent to the State Department of State Hospitals and the statement of all nontreatment costs, except as provided in subdivision (c), shall be sent to the Controller for approval. After approval, the department shall cause the amount of mental health treatment costs incurred on or after July 1, 1987, to be paid to the county mental health director or his or her designee where the trial or hearing was held out of the money appropriated for this purpose by the Legislature. In addition, the Controller shall cause the amount of all nontreatment costs incurred on and after July 1, 1987, to be paid out of the money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

(b) Commencing January 1, 2012, the nontreatment costs associated with Section 2966 of the Penal Code and approved by the Controller, as required by subdivision (a), shall be paid by the Department of Corrections and Rehabilitation pursuant to Section 4750 of the Penal Code.

(c) The nontreatment costs associated with any hearing for an order seeking involuntary treatment with psychotropic medication, or any other medication for which an order is required, of a person

confined in a state hospital pursuant to Section 2972 of the Penal Code, as provided in subdivision (a), shall be paid by the county of commitment. As used in this subdivision, “county of commitment” means the county seeking the continued treatment of a mentally disordered offender pursuant to Section 2972 of the Penal Code. The appropriate financial officer or other designated official of the county in which the proceeding is held shall make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement shall be certified by a judge of the superior court of the county. The statement shall then be sent to the county of commitment, which shall reimburse the county providing the services.

(d) (1) Whenever a hearing is held pursuant to Section 1604, 1608, 1609, or 2966 of the Penal Code, all transportation costs to and from a state hospital or a facility designated by the community program director during the hearing shall be paid by the Controller as provided in this subdivision. The appropriate financial officer or other designated official of the county in which a hearing is held shall make out a statement of all transportation costs incurred by the county. The statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. The Controller shall cause the amount of transportation costs incurred on and after July 1, 1987, to be paid to the county treasurer of the county where the hearing was had out of the money appropriated by the Legislature.

(2) As used in this subdivision, “community program director” means the person designated pursuant to Section 1605 of the Penal Code.

Approved _____, 2013

Governor